

Article 7. Personnel**87405 ADMINISTRATOR - QUALIFICATIONS AND DUTIES****87405**

- (a) All facilities shall have a certified administrator. The licensee and the administrator may be one and the same person. The administrator shall have sufficient freedom from other responsibilities and shall be on the premises a sufficient number of hours to permit adequate attention to the management and administration of the facility as specified in this section. When the administrator is not in the facility, there shall be coverage by a designated substitute who shall have qualifications adequate to be responsible and accountable for management and administration of the facility as specified in this section. The Department may require that the administrator devote additional hours in the facility to his/her responsibilities when the need for such additional hours is substantiated by written documentation.
- (b) The administrator of a facility or facilities shall have the responsibility and authority to carry out the policies of the licensee.
- (c) Failure to comply with all licensing requirements pertaining to certified administrators may constitute cause for revocation of the license of the facility.
- (d) The administrator shall have the qualifications specified in Sections 87405(d)(1) through (7). If the licensee is also the administrator, all requirements for an administrator shall apply.
 - (1) Knowledge of the requirements for providing care and supervision appropriate to the residents.
 - (2) Knowledge of and ability to conform to the applicable laws, rules and regulations.
 - (3) Ability to maintain or supervise the maintenance of financial and other records.
 - (4) When applicable, the ability to direct the work of others.
 - (5) Good character and a continuing reputation of personal integrity.
 - (6) Have a high school diploma or equivalent, such as a General Education Development (GED) certificate.
 - (7) Be at least 21 years of age.

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- (e) The administrator of a facility licensed for sixteen (16) to forty-nine (49) residents shall have completed, with a passing grade, at least fifteen (15) college or continuing education semester or equivalent quarter units; and shall have at least one year's experience providing residential care to the elderly; or equivalent education and experience as approved by the Department.
- (f) The administrator in facilities licensed for fifty (50) or more shall have two years of college; at least three years experience providing residential care to the elderly; or equivalent education and experience as approved by the licensing agency.
- (g) All administrators shall be required to complete at least 20 clock hours of continuing education per year in areas related to aging and/or administration.
- (h) Administrators employed/licensed prior to July 1, 1982, shall not be required to comply with the college and continuing education requirements in Section 87405(e) or the college requirements in Section 87405(f) provided that they have no break in employment as a Residential Care Facility for the Elderly administrator exceeding three (3) consecutive years.
- (i) The administrator shall have the responsibility to:
 - (1) Administer the facility in accordance with these regulations and established policy, program and budget.
 - (2) Where applicable, report to the licensee on the operation of the facility, and provide the licensee with necessary interpretations of recognized standards of care and supervision.
 - (3) Develop an administrative plan and procedures to ensure clear definition of lines of responsibility, equitable workloads, and adequate supervision.
 - (4) Recruit, employ and train qualified staff, and terminate employment of staff who perform in an unsatisfactory manner.
 - (5) Provide or ensure the provision of services to the residents with appropriate regard for the residents' physical and mental well-being and needs, including those services identified in the residents' pre-admission appraisal, specified in Section 87457, Pre-admission Appraisal.
 - (6) Make special provisions for the safety and guidance of residents with visual or auditory deficiencies.

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- (7) Make provision for the resident with unmet needs to attend available community programs, including but not limited to, arranging for transportation.
- (8) Have the personal characteristics, physical energy and competence to provide care and supervision and, where applicable, to work effectively with social agencies.
- (j) In those cases where the individual is both the licensee and the administrator of a residential care facility for the elderly, the individual shall comply with all of the licensee and certified administrator requirements.

NOTE: Authority cited: Sections 1569.30 and 1569.616(j), Health and Safety Code. Reference: Sections 1569.1, 1569.2, 1569.17, 1569.31, 1569.312, 1569.315, 1569.613, 1569.616 and 1569.62, Health and Safety Code.

87406 ADMINISTRATOR CERTIFICATION REQUIREMENTS**87406**

- (a) All individuals shall be certificate holders prior to being employed as an administrator, or shall have submitted to the Department the documentation required to obtain a certificate pursuant to Section 87406(b).
 - (1) Administrators who possess a valid Nursing Home Administrator license, issued by the California Board of Nursing Home Administrators, shall be exempt from completing an approved Initial Certification Training Program and taking a written test, provided the individual completes twelve (12) hours of classroom instruction in the following uniform Core of Knowledge areas:
 - (A) Laws, regulations, policies, and procedural standards that impact the operations of residential care facilities for the elderly.
 - (B) The use, misuse, and interaction of medication commonly used by the elderly in a residential setting.
 - (C) Resident admission, retention, and assessment procedures.
 - (2) Individuals who were both the licensee and administrator on or before July 1, 1991, shall complete an Initial Certification Training Program but shall not be required to take the written test. Individuals exempted from the written test shall be issued a conditional certification valid only for the administrator of the facility for which the exemption was granted.

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- (A) As a condition to becoming a certified administrator of another facility, a holder of a conditional certificate issued pursuant to Section 87406(a)(2) shall be required to pass the written test.
 - (B) As a condition to applying for a new facility license, the holder of a conditional certificate issued pursuant to Section 87406(a)(2) shall be required to pass the written test.
 - (3) An applicant for licensure shall be subject to the same application process for Initial Certification of Administrators as set forth in Section 87406(b).
- (b) To receive his/her certificate an applicant shall:
- (1) Unless exempted by Section 87406(a)(1), successfully complete a Department-approved Initial Certification Training Program.
 - (2) Unless exempted by Section 87406(a)(1) or (a)(2), pass a written test administered by the Department within sixty (60) days of completion of an Initial Certification Training Program.
 - (3) Submit an application to the Department's certification section within thirty (30) days of being notified of having passed the test, or if the applicant is exempt from taking the written test, within 30 days of completing the certification training. The application shall contain the following:
 - (A) Proof that the applicant has successfully completed a Department-approved Initial Certification Training Program or, in the case of a Nursing Home Administrator, proof of completion of 12 hours of classroom instruction as specified in Section 87406(a)(1).
 - (B) Documentation of passing the written test or qualifying for an exemption pursuant to Section 87406(a)(1) or (a)(2).
 - (C) A statement certifying that the applicant is at least twenty-one (21) years of age.
 - (D) Fingerprint cards, or evidence that the applicant has submitted fingerprints to the Department of Justice at a live scan facility, or a statement that the applicant has a current criminal record clearance on file with the Department.
 - (E) A one hundred dollar (\$100) processing fee.
 - (F) A copy of the front and back of his/her current nursing home wallet license, or equivalent, if the applicant is a current Nursing Home Administrator.

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- (c) The Department shall not issue a certificate until it receives notification from the Department of Justice that the applicant has a criminal record clearance pursuant to Health and Safety Code Section 1569.17 or is able to transfer a current criminal record clearance pursuant to Health and Safety Code Section 1569.17(g)(1).
- (d) It shall be unlawful for any person not certified under this section to hold himself or herself out as a certified administrator. Any person willfully making any false representation as being a certified administrator is guilty of a misdemeanor.
- (e) Certificates issued under this section shall be renewed every two (2) years provided the certificate holder has complied with all renewal requirements.
- (f) Certificates shall be valid for a period of two (2) years and expire on either the anniversary date of initial issuance or on the individual's birthday during the second calendar year following certification.
 - (1) The certificate holder shall make an irrevocable election to have his or her recertification date for any subsequent recertification either on the date two (2) years from the date of issuance of the certificate or on the individual's birthday during the second calendar year following certification.
- (g) Time deadlines specified in Sections 87406(b)(2) and (3) may be extended for good cause as determined by the Department. Any request for an extension of time shall be in writing and shall contain a statement of all facts the applicant believes constitute good cause to extend a time deadline.

NOTE: Authority cited: Sections 1569.23(d), 1569.30 and 1569.616(j), Health and Safety Code.
Reference: Sections 1569.17, 1569.171, 1569.23, 1569.315, 1569.613 and 1569.616, Health and Safety Code.

87407 ADMINISTRATOR RECERTIFICATION REQUIREMENTS**87407**

- (a) Administrators shall complete at least forty (40) classroom hours of continuing education during each two (2)-year certification period.
 - (1) Administrators who renew their administrator certification on or after January 1, 2003, shall submit proof of having completed at least eight (8) hours of the 40 hour continuing education requirement in subjects related to serving residents with Alzheimer's Disease and other dementias, including, but not limited to, instruction related to direct care, physical environment, and admissions procedures and assessment.

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- (A) This instruction may be taken as a single eight (8)-hour class or in smaller increments that total at least eight (8) hours within each two (2)-year renewal period.
- (b) Continuing education hours must be related to the Core of Knowledge and be completed through any combination of the following:
 - (1) Courses provided by vendors approved by the Department, or
 - (2) Accredited educational institutions offering courses that are consistent with the requirements of this section, or

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Examples of accredited educational institutions are community colleges and state colleges.

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- (3) Courses offered by vendors approved by other California State agencies provided that:
 - (A) The approval and enforcement procedures of the state agency are comparable to the approval and enforcement procedures of the Department, and
 - (B) The course relates to the Core of Knowledge as specified in Sections 87785(h)(1)(A) through (I).

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Prior to taking a course from one of the entities specified in Section 87407(a)(2) or (3), the certificate holder should study the course description carefully to ensure that it fits within the Core of Knowledge as specified in Sections 87785(h)(1)(A) through (I). If the course does not fit within the Core of Knowledge, it may not be credited toward the recertification requirement.

Examples of other California State agencies that meet the requirements specified in Section 84064.3(a) are the Department of Developmental Services, Department of Rehabilitation, Board of Behavioral Science Examiners and Board of Psychology.

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- (c) Courses approved for continuing education credit shall require the physical presence of the certificate holder in a classroom setting, except that:
 - (1) The Department may approve courses where technology permits the simultaneous and interactive participation of the certificate holder, provided such participation is verifiable.
- (d) To apply for recertification prior to the expiration date of the certificate, the certificate holder shall submit:
 - (1) A written request to recertify post-marked on or before the certificate expiration date.
 - (2) Evidence of completion of forty (40) continuing education hours as specified in Section 87407(a).
 - (3) Payment of a one hundred dollar (\$100) processing fee.
- (e) To apply for recertification after the expiration date of the certificate, but within four (4) years of the certificate expiration date, the certificate holder shall submit:
 - (1) A written request to recertify.
 - (2) Evidence of completion of the required continuing education hours as specified in Section 87407(a). The total number of hours required for recertification shall be determined by computing the number of continuing education hours the certificate holder would have been required to complete if they had remained certified. The date of computation shall be the date the written request for recertification is received by the Department.
 - (3) Payment of a delinquency fee equal to three times the renewal fee, or three hundred dollars (\$300).
- (f) Certificates not renewed within four (4) years of their expiration date shall not be renewed, restored, reissued or reinstated.
 - (1) Holders of certificates not renewed within four (4) years of their expiration date shall complete an Initial Certification Training Program as specified in Section 87406(b).
- (g) Certificate holders who possess a valid Nursing Home Administrator license shall be required to complete only twenty (20) of the required forty (40) hours of continuing education.
- (h) Certificate holders, as a condition of recertification, shall have a current criminal record clearance.

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- (i) A processing fee of twenty-five dollars (\$25) shall be paid for the replacement of a lost certificate.
- (j) A certificate holder shall report any change of mailing address within thirty (30) days of the change to the Department's administrator certification section.
- (k) Whenever a certified administrator assumes or relinquishes responsibility for administering a residential care facility for the elderly, he or she shall provide written notice, within thirty (30) days, to:
 - (1) The licensing District Office responsible for receiving information regarding personnel changes at the licensed facility with whom the certificate holder is or was associated, and
 - (2) The Department's administrator certification section.

NOTE: Authority cited: Sections 1569.30 and 1569.616(j), Health and Safety Code. Reference: Sections 1569.17, 1569.171, 1569.23, 1569.315, 1569.613 and 1569.616, Health and Safety Code.

87408 ADMINISTRATOR CERTIFICATE DENIAL OR REVOCATION 87408

- (a) The Department may deny or revoke any administrator certificate for violation of licensing regulations or for any of the following grounds:
 - (1) The certificate holder procured a certificate by fraud or misrepresentation.
 - (2) The certificate holder knowingly made or gave a false statement or information in conjunction with the application for a certificate.
 - (3) The Department has issued an exclusion order against the certificate holder pursuant to Health and Safety Code Sections 1558, 1568.092, 1569.58 or 1596.8897 after the Department issued the certificate, and;
 - (A) The certificate holder did not appeal the exclusion order, or
 - (B) After the appeal, the Department issued a decision and order that upheld the exclusion order.
 - (4) The certificate holder does not have a current criminal record clearance.

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- (5) The certificate holder fails to comply with certificate renewal requirements.
 - (A) The Department may reinstate a certificate that has been revoked for failure to comply with certificate renewal requirements provided all conditions for recertification have been satisfied, including payment of all appropriate renewal and delinquency fees.
- (6) The certificate holder engaged in conduct which is inimical to the health, morals, welfare, or safety of either an individual in or receiving services from the facility or the people of the State of California.
- (b) Any denial or revocation of an administrator certificate may be appealed as provided by Health and Safety Code Section 1569.51.
- (c) Unless otherwise ordered by the Department, any application for an administrator certificate submitted after a denial or revocation action shall be processed in accordance with the provisions of Health and Safety Code Section 1569.16.

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Health and Safety Code section 1569.16, in pertinent part, provides that:

(a)(1) If an applicant for a license indicates, or the department determines during the application review process, that the applicant previously was issued a license under this chapter or under Chapter 1 (commencing with Section 1200), Chapter 2 (commencing with Section 1250), Chapter 3 (commencing with Section 1500), Chapter 3.01 (commencing with Section 1568.01), Chapter 3.4 (commencing with Section 1596.70), Chapter 3.5 (commencing with Section 1596.90), or Chapter 3.6 (commencing with Section 1597.30) and the prior license was revoked within the preceding two years, the department shall cease any further review of the application until two years have elapsed from the date of the revocation.

(a)(3) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant was excluded from a facility licensed by the department pursuant to Section 1558, 1568.092, 1569.58, or 1596.8897, the department shall cease any further review of the application unless the excluded individual has been reinstated pursuant to Section 11522 of the Government Code by the department.

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(b) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant had previously applied for a license under any of the chapters listed in paragraph (1) of subdivision (a) and the application was denied within the last year, the department shall, except as provided in Section 1569.22, cease further review of the application until one year has elapsed from the date of the denial letter. In those circumstances where denials are appealed and upheld at an administrative hearing, review of the application shall cease for one year from the date of the decision and order being rendered by the department. The cessation of review shall not constitute a denial of the application.

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NOTE: Authority cited: Sections 1569.30 and 1569.616(j), Health and Safety Code. Reference: Sections 1569.16, 1569.51, 1569.613 and 1569.616, Health and Safety Code.

87409	ADMINISTRATOR CERTIFICATE FORFEITURE	87409
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- (a) Unless otherwise ordered by the Department, the certificate shall be considered forfeited under any of the following conditions:
- (1) The Department has revoked any license held by the certificate holder after the Department issued the certificate.
 - (2) The Department has issued an exclusion order against the certificate holder pursuant to Health and Safety Code sections 1558, 1568.092, or 1569.58 after the Department issued the certificate, and;
 - (A) The certificate holder did not appeal the exclusion order or,
 - (B) After the appeal, the Department issued a decision and order that upheld the exclusion order.
- (b) Unless otherwise ordered by the Department, any application for an administrator certificate submitted after a certificate has been forfeited shall be processed in accordance with the provisions of Health and Safety Code Sections 1569.16 and/or 1569.58(h).

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Health and Safety Code section 1569.16, in pertinent part, provides that:

(a)(1) If an applicant for a license indicates, or the department determines during the application review process, that the applicant previously was issued a license under this chapter or under Chapter 1 (commencing with Section 1200), Chapter 2 (commencing with Section 1250), Chapter 3 (commencing with Section 1500), Chapter 3.01 (commencing with Section 1568.01), Chapter 3.4 (commencing with Section 1596.70), Chapter 3.5 (commencing with Section 1596.90), or Chapter 3.6 (commencing with Section 1597.30) and the prior license was revoked within the preceding two years, the department shall cease any further review of the application until two years have elapsed from the date of the revocation.

(a)(3) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant was excluded from a facility licensed by the department pursuant to Section 1558, 1568.092, 1569.58, or 1596.8897, the department shall cease any further review of the application unless the excluded individual has been reinstated pursuant to Section 11522 of the Government Code by the department.

(b) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant had previously applied for a license under any of the chapters listed in paragraph (1) of subdivision (a) and the application was denied within the last year, the department shall, except as provided in Section 1569.22, cease further review of the application until one year has elapsed from the date of the denial letter. In those circumstances where denials are appealed and upheld at an administrative hearing, review of the application shall cease for one year from the date of the decision and order being rendered by the department. The cessation of review shall not constitute a denial of the application.

Health and Safety Code Section 1569.58(h), in pertinent part, provides that:

(1)(A) In cases where the excluded person appealed the exclusion order and there is a decision and order of the department upholding the exclusion order, the person shall be prohibited from working in any facility or being licensed to operate any facility licensed by the department or from being a certified foster parent for the remainder of the excluded person's life, unless otherwise ordered by the department.

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(1)(B) The excluded individual may petition for reinstatement one year after the effective date of the decision and order of the department upholding the exclusion order pursuant to Section 11522 of the Government Code. The department shall provide the excluded person with a copy of Section 11522 of the Government Code with the decision and order.

(2)(A) In cases where the department informed the excluded person of his or her right to appeal the exclusion order and the excluded person did not appeal the exclusion order, the person shall be prohibited from working in any facility or being licensed to operate any facility licensed by the department or a certified foster parent for the remainder of the excluded person's life, unless otherwise ordered by the department.

(2)(B) The excluded individual may petition for reinstatement after one year has elapsed from the date of the notification of the exclusion order pursuant to Section 11522 of the Government Code. The department shall provide the excluded person with a copy of Section 11522 of the Government Code with the exclusion order.

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NOTE: Authority cited: Sections 1569.30 and 1569.616(j), Health and Safety Code. Reference: Sections 1568.092, 1569.16, 1569.50, 1569.58 and 1569.616, Health and Safety Code.

87411 PERSONNEL REQUIREMENTS - GENERAL**87411**

- (a) Facility personnel shall at all times be sufficient in numbers, and competent to provide the services necessary to meet resident needs. In facilities licensed for sixteen or more, sufficient support staff shall be employed to ensure provision of personal assistance and care as required in Section 87608, Postural Supports. Additional staff shall be employed as necessary to perform office work, cooking, house cleaning, laundering, and maintenance of buildings, equipment and grounds. The licensing agency may require any facility to provide additional staff whenever it determines through documentation that the needs of the particular residents, the extent of services provided, or the physical arrangements of the facility require such additional staff for the provision of adequate services.
- (b) All persons who supervise employees or who supervise or care for residents shall be at least eighteen (18) years of age.